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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

In re

BERNARD L. MADOFF,

Debtor.

**NOTICE OF APPEAL &
PROTECTIVE MOTION FOR LEAVE TO APPEAL**

The Aspen Company, Ann Denver, Norton Eisenberg, Export Technicians Inc., Stephen R. Goldenberg, Judith Rock Goldman, Albert J. Goldstein U/W FBO Ruth E. Goldstein, Jerry Guberman, Anita Karimian, Michael and Stacey Mathias, Martin Rappaport, Paul J. Robinson, Bernard Seldon, and Harold A. Thau (“Appellants”) hereby appeal under 28 U.S.C. § 158(d) to the United States Court of Appeals for the Second Circuit from the Court’s Order (1) Upholding Trustee’s Determination Denying Customer Claims for Amounts Listed on Last Customer Statement; (2) Affirming Trustee’s Determination of Net Equity; and (3) Expunging Those Objections With Respect to the Determinations Relating to Net Equity [Dkt. No. 2020] (Exhibit 1) (“Net Equity Order”) entered in the above-captioned action on March 8, 2010. The Net Equity Order incorporates the Court’s March 1, 2010 memorandum decision. *See* Memorandum Decision Granting Trustee’s Motion For An Order (1) Upholding Trustee’s Determination Denying Customer Claims For Amounts Listed On Last Customer Statement; (2) Affirming Trustee’s Determination of Net Equity; and (3) Expunging Objections to Determinations Relating to Net Equity, *Sec. Investor Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC (In re Bernard L. Madoff Inv. Sec. LLC)*, No. 08-1789, (Bankr. S.D.N.Y. Mar. 1, 2010) [Dkt. 1999] (Exhibit 2). On March 8, 2010, the Court certified the Net Equity Order for direct appeal to the Second Circuit pursuant to 28 U.S.C. § 158(d)(2). *See* Certification of Net Equity Order (Exhibit 3) [Dkt. No. 2022].

In the alternative, and in the event the United States Court of Appeals for the Second Circuit does not authorize a direct appeal of the Net Equity Order, Appellants appeal the Net Equity Order to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 158(a)(1).

Although the Net Equity Order provides that it “is a final order as that term is defined in 28 U.S.C. § 158(a)(1),” Net Equity Order at 4, such that Appellants need not seek leave to

appeal, Bankr. R. P. 8001(a), in the event the Net Equity Order should nonetheless be deemed interlocutory, Appellants appeal the Net Equity Order to the Second Circuit pursuant to 28 U.S.C. § 158(d) and to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 158(a)(3) and request that this Notice be deemed a motion for leave to appeal for the reasons set forth in the Certification (Exhibit 3), or that Appellants be permitted to file a motion for leave to appeal. *See* Bankr. R. P. 8003(c).

The names of all parties to the Net Equity Order appealed from and the names, addresses, and telephone numbers of their respective attorneys are set forth in the attached Appendix A.

Dated: March 19, 2010

s/ Jonathan M. Landers

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